

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3855 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

J. D. NAYKAR

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/02/98

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly, in the third round but none put appearance for the petitioner. Perused the special civil application and reply filed to the same.

2. The petitioner prayed for direction to the respondents to give him the appointment on the post of

Assistant Director in the Drugs Control Administration in Gujarat Drugs Service, Class I.

3. Three posts of Assistant Director in the Drugs Control Administration were advertised by the Gujarat Public Service Commission and admittedly one post was reserved for scheduled tribe candidate and two posts were for general category. The persons at Sr. No.1 and 2 in the merit list were given the appointment. It appears that the suitable candidate belonging to the scheduled tribe was not made available and on the third post, the appointment could not be made. Admittedly, the name of the petitioner was in the waiting list at Sr. No.1. The State Government made a request to the G.P.S.C. to recommend the name of the candidate from waiting list for making adhoc temporary appointment on the third post till suitable scheduled tribe candidate is made available after making the fresh advertisement. The G.P.S.C.. declined to recommend the name on the ground that if such an appointment is made then it may create some complication. It has further been stated that the Government should send a requisition and again the advertisement should be issued and in spite of that, if no such candidate is available then the person on the waiting list may be recommended. Instead of following that course, the State Government vide its letter dated 16th April, 1986 intended to make the appointment of non-scheduled tribe candidate and this particular reserved post may be carried forward for the next two occasions and therefore the G.P.S.C. should recommend the name of the candidate from the waiting list but the G.P.S.C. has not made any recommendation from the waiting list.

4. The action of the G.P.S.C. to insist for fresh advertisement for the post reserved for scheduled tribe candidate seems to be justified. Only after making reasonable attempts to fill up the post of reserved category, in case the suitable candidate is not made available, then it is understandable that the said post may be carried forward, but in the present case, despite of the suggestion made by the G.P.S.C., the State Government has not send the fresh requisition for making the appointment on the post reserved for the scheduled tribe candidate. On the contrary, the State Government insisted to fill up the post by general category either by making adhoc appointment or by carrying forward the reserved post. That approach of the Government seems to be contrary to its own policies framed for the reservation of the seats in the employment for scheduled caste and scheduled tribe candidates.

5. The claim of the petitioner for appointment on the post reserved for scheduled tribe candidate and in the facts where his name is in the waiting list, does not stand to any merits.

6. This special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-